

October 4, 2001

Via E-mail and Via U.S. Mail

Mary Cottrell
Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, Massachusetts 02110

Dear Secretary Cottrell:

Re: Petition of Cape Light Compact for Approval of a Municipal Default Service Pilot
Project, D.T.E. 01-63

Dear Secretary Cottrell:

By a letter dated October 2, 2001, the Office of the Attorney General (“Attorney General”) and the Division of Energy Resources (“DOER”) provided Joint Reply Comments in the above referenced proceeding in which they encouraged the Department of Telecommunications and Energy (“Department” or “DTE”) to approve the Cape Light Compact’s (“Compact”) proposal for a pilot municipal load aggregation program. In that letter the Attorney General and the DOER explained that their position was taken on the basis of their understanding of additional information and modifications that the Compact would provide in its Reply Comments and that the most important issues (a determination of savings for consumers and appropriate terms of service) were to be deferred until the submission of an actual power contract. The Attorney General and the DOER have now reviewed the Reply Comments filed by the Compact and, based upon that review, reiterate their support for approval of the proposed pilot, subject to later review of the terms of a power supply contract.

The Attorney General and the DOER are compelled, however, to state their strenuous disagreement with those portions of the Compact's Reply Comments in which the Compact asserts that it alone is "entitled to the full panoply of adjudicatory procedures in connection with review of the Plan." Compact Reply, pp. 11-12. Although the issue of whether the Attorney General, the DOER or any other party would be entitled to adjudicatory hearings in connection with disputed question of fact is not now before the Department¹, the Attorney General and the DOER observe that the Compact's position, at a minimum, overlooks the roles assigned to their respective offices under the terms of the Electric Utility Restructuring Act of 1997 as well as the specific grant of authority to the Attorney General "to intervene ... on behalf of any group of consumers in connection with any matter involving the rates, charges, prices or tariffs of an electric ...company..." G.L. c. 123, § 11E. Again, this issue is not now before the Department, but in light of its significance, the undersigned feel compelled to respond to the Compact's gratuitous arrogation of procedural rights.

Sincerely,

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¹ The Attorney General's earlier request that the Department conduct such hearings has effectively been withdrawn by his Reply Comments supporting approval of the proposed pilot program. No other party has identified any factual issues or, for that matter, requested adjudicatory hearings.